

REFERENCE TITLE: PSPRS; investments; management

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

## HB 2395

Introduced by  
Representatives Weiers J: Robson

AN ACT

AMENDING SECTION 38-803 AND 38-848, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-848.03; RELATING TO THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-803, Arizona Revised Statutes, is amended to  
3 read:

4 38-803. Powers and duties of the fund manager

5 A. The fund manager, in the administration, management and operation  
6 of the plan and fund, shall:

7 1. Account for the operation, administration and investment expenses  
8 and allocate them against investment income.

9 2. Contract on a fee basis with an actuary to make an actuarial  
10 valuation of the plan based on the valuation method and valuation assumptions  
11 recommended by the actuary and approved by the fund manager. The actuary  
12 shall be a member of the American academy of actuaries.

13 3. Contract on a fee basis with an independent auditing firm to make  
14 an annual audit of the accounting records of the fund and file a copy of the  
15 audit with the auditor general.

16 4. Invest the monies in the fund as provided in ~~section 38-848~~ ARTICLE  
17 4 OF THIS CHAPTER.

18 5. Within a period of six months after the close of each fiscal year,  
19 submit a detailed report of the operation and the investment performance of  
20 the plan to the governor, the legislature and the members of the plan.

21 6. By November 1 of each year provide a preliminary report and by  
22 December 15 of each year provide a final report to the governor, the speaker  
23 of the house of representatives and the president of the senate on the  
24 contribution rate for the ensuing fiscal year.

25 B. The fund manager, in the administration, management and operation  
26 of the plan and fund, may:

27 1. Employ services as it deems necessary.

28 2. Either keep invested monies separate or commingle invested monies  
29 as it deems appropriate.

30 3. Delegate authority as it deems necessary and prudent to the  
31 administrator employed pursuant to section 38-848, subsection K, paragraph 6.

32 4. Do all acts, whether expressly authorized, which may be deemed  
33 necessary or proper for the protection of the fund.

34 Sec. 2. Section 38-848, Arizona Revised Statutes, is amended to read:

35 38-848. Fund manager

36 A. The fund manager shall consist of five members and shall have the  
37 rights, powers and duties that are set forth in this section. The term of  
38 office of members shall be three years to expire on the third Monday in  
39 January of the appropriate year. Members are eligible to receive  
40 compensation in an amount of fifty dollars a day, but not to exceed one  
41 thousand dollars in any one fiscal year, and are eligible for reimbursement  
42 of expenses pursuant to chapter 4, article 2 of this title. The fund manager  
43 consists of the following members appointed by the governor pursuant to  
44 section 38-211:

45 1. One elected member from a local board to represent the employees.

1           2. One member to represent this state as an employer of public safety  
2 personnel. This member shall have the qualifications prescribed in  
3 subsection R of this section.

4           3. One member to represent the cities as employers of public safety  
5 personnel.

6           4. An elected county or state official or a judge of the superior  
7 court, court of appeals or supreme court.

8           5. One public member. This member shall have the qualifications  
9 prescribed in subsection R of this section.

10          B. All monies in the fund shall be deposited and held in a public  
11 safety personnel retirement system depository. Monies in the fund shall be  
12 disbursed from the depository separate and apart from all monies or funds of  
13 ~~the~~ THIS state and the agencies, instrumentalities and subdivisions ~~thereof~~  
14 OF THIS STATE, EXCEPT THAT THE FUND MANAGER MAY COMMINGLE THE ASSETS OF THE  
15 FUND AND THE ASSETS OF ALL OTHER PLANS ENTRUSTED TO ITS MANAGEMENT, SUBJECT  
16 TO THE CREDITING OF RECEIPTS AND EARNINGS AND CHARGING OF PAYMENTS TO THE  
17 APPROPRIATE EMPLOYER, SYSTEM OR PLAN. The monies shall be secured by the  
18 depository in which they are deposited and held to the same extent and in the  
19 same manner as required by the general depository law of ~~the~~ THIS state. FOR  
20 PURPOSES OF MAKING THE DECISION TO INVEST IN SECURITIES OWNED BY THE FUND OR  
21 ANY PLAN ADMINISTERED BY THE FUND MANAGER, the fund ~~is~~ AND ASSETS OF THE  
22 PLANS ARE subject to the sole management of the fund manager for the purpose  
23 of this article EXCEPT THAT, ON THE FUND MANAGER'S ELECTION TO INVEST IN A  
24 PARTICULAR SECURITY OR MAKE A PARTICULAR INVESTMENT, THE ASSETS COMPRISING  
25 THE SECURITY OR INVESTMENT MAY BE CHOSEN AND MANAGED BY THIRD PARTIES  
26 APPROVED BY THE FUND MANAGER. THE FUND MANAGER MAY INVEST IN PORTFOLIOS OF  
27 SECURITIES CHOSEN AND MANAGED BY A THIRD PARTY. THE FUND MANAGER'S DECISION  
28 TO INVEST IN SECURITIES SUCH AS MUTUAL FUNDS, COMMINGLED INVESTMENT FUNDS,  
29 EXCHANGE TRADED FUNDS, PRIVATE EQUITY OR VENTURE CAPITAL LIMITED  
30 PARTNERSHIPS, REAL ESTATE LIMITED PARTNERSHIPS OR LIMITED LIABILITY COMPANIES  
31 AND REAL ESTATE INVESTMENT TRUSTS WHOSE ASSETS ARE CHOSEN AND MANAGED BY  
32 THIRD PARTIES DOES NOT CONSTITUTE AN IMPROPER DELEGATION OF THE FUND  
33 MANAGER'S INVESTMENT AUTHORITY.

34          C. All contributions under this system AND OTHER RETIREMENT PLANS THAT  
35 THE FUND MANAGER ADMINISTERS shall be forwarded to the fund manager and shall  
36 be held, invested and reinvested by the fund manager AS PROVIDED IN THIS  
37 ARTICLE. All property and ~~funds~~ MONIES of the fund AND OTHER RETIREMENT  
38 PLANS THAT THE FUND MANAGER ADMINISTERS, including income from investments  
39 and from all other sources, shall be retained for the exclusive benefit of  
40 members, as provided in the system AND OTHER RETIREMENT PLANS THAT THE FUND  
41 MANAGER ADMINISTERS, and shall be used to pay benefits to members or their  
42 beneficiaries or to pay expenses of operation and administration of the  
43 system and fund AND OTHER RETIREMENT PLANS THAT THE FUND MANAGER ADMINISTERS.

1 D. The fund manager shall have the full power in its sole discretion  
 2 to invest and reinvest, alter and change the monies accumulated under the  
 3 system AND OTHER RETIREMENT PLANS THAT THE FUND MANAGER ADMINISTERS AS  
 4 PROVIDED IN THIS ARTICLE. IN ADDITION TO ITS POWER TO MAKE INVESTMENTS  
 5 MANAGED BY OTHERS, the fund manager may delegate the authority the fund  
 6 manager deems necessary and prudent to INVESTMENT MANAGEMENT PURSUANT TO  
 7 SECTION 38-848.03, AS WELL AS TO the administrator, employed by the fund  
 8 manager pursuant to subsection K, paragraph 6 of this section, and any  
 9 assistant administrators to invest the monies of the system AND OTHER  
 10 RETIREMENT PLANS THAT THE FUND MANAGER ADMINISTERS if the administrator,  
 11 INVESTMENT MANAGEMENT and any assistant administrators follow the investment  
 12 policies that are promulgated by the fund manager. The fund manager may  
 13 commingle securities and monies of the fund, THE ELECTED OFFICIALS'  
 14 RETIREMENT PLAN, THE CORRECTIONS OFFICER RETIREMENT PLAN AND OTHER PLANS OR  
 15 MONIES ENTRUSTED TO ITS CARE, subject to the crediting of receipts and  
 16 earnings and charging of payments to the account of the appropriate employer,  
 17 SYSTEM OR PLAN. In making every investment, the fund manager shall exercise  
 18 the judgment and care under the circumstances then prevailing which persons  
 19 of ordinary prudence, discretion and intelligence exercise in the management  
 20 of their own affairs, not in regard to speculation but in regard to the  
 21 permanent disposition of their funds, considering the probable income from  
 22 their funds as well as the probable safety of their capital, provided:

23 1. That not more than ~~seventy~~ EIGHTY per cent of the ~~pension-fund~~  
 24 COMBINED ASSETS OF THE SYSTEM OR OTHER PLANS THAT THE FUND MANAGER MANAGES  
 25 shall be invested at any given time in corporate stocks, based on cost value  
 26 of such stocks irrespective of capital appreciation.

27 2. That no more than five per cent of the ~~pension-fund~~ COMBINED ASSETS  
 28 OF THE SYSTEM OR OTHER PLANS THAT THE FUND MANAGER MANAGES shall be invested  
 29 in ~~securities~~ CORPORATE STOCK issued by any one ~~institution, agency or~~  
 30 corporation, other than ~~securities~~ CORPORATE STOCK issued ~~as direct~~  
 31 ~~obligations of and fully guaranteed~~ by CORPORATIONS CHARTERED BY the United  
 32 States government OR CORPORATE STOCK ISSUED BY A BANK OR INSURANCE COMPANY.

33 3. That not more than five per cent of the voting stock of any one  
 34 corporation shall be owned BY THE SYSTEM AND OTHER PLANS THAT THE FUND  
 35 MANAGER ADMINISTERS, EXCEPT THAT THIS LIMITATION DOES NOT APPLY TO MEMBERSHIP  
 36 INTERESTS IN LIMITED LIABILITY COMPANIES.

37 4. That corporate stocks and exchange traded funds eligible for  
 38 purchase shall be restricted to stocks and exchange traded funds that, except  
 39 for bank stocks, insurance stocks and membership interests in limited  
 40 liability companies, are either:

41 (a) Listed or approved on issuance for listing on an exchange  
 42 registered under the securities exchange act of 1934, as amended (15 United  
 43 States Code sections 78a through 78l).

1 (b) Designated or approved on notice of issuance for designation on  
 2 the national market system of a national securities association registered  
 3 under the securities exchange act of 1934, as amended (15 United States Code  
 4 sections 78a through 78ll).

5 (c) Listed or approved on issuance for listing on an exchange  
 6 registered under the laws of this state or any other state.

7 (d) Listed or approved on issuance for listing on an exchange of a  
 8 foreign country with which the United States is maintaining diplomatic  
 9 relations at the time of purchase, except that no more than ~~ten~~ THIRTY per  
 10 cent of the ~~pension fund~~ COMBINED ASSETS OF THE SYSTEM AND OTHER PLANS THAT  
 11 THE FUND MANAGER MANAGES shall be invested in foreign equity securities  
 12 PURCHASED on these FOREIGN exchanges, based on the cost value of the stocks  
 13 irrespective of capital appreciation.

14 (e) An exchange traded fund that is recommended by the chief  
 15 investment officer of the system, that is registered under the investment  
 16 company act of 1940 (15 United States Code ~~section~~ SECTIONS 80a-1 THROUGH  
 17 80a-64) and that is both traded on a public exchange and based on a publicly  
 18 recognized index.

19 E. Notwithstanding any other law, the fund manager shall not be  
 20 required to invest in any type of investment that is dictated or required by  
 21 any entity of the federal government and that is intended to fund economic  
 22 development projects, public works or social programs, but may consider such  
 23 economically targeted investments pursuant to its fiduciary responsibility.  
 24 The fund manager, on behalf of the system, may invest in, lend monies to or  
 25 guarantee the repayment of monies by a limited liability company, limited  
 26 partnership, joint venture, partnership, limited liability partnership or  
 27 trust in which the system has a financial interest, whether the entity is  
 28 closely held or publicly traded and that, in turn, may be engaged in any  
 29 lawful activity, including VENTURE CAPITAL, PRIVATE EQUITY, the ownership,  
 30 development, management, improvement or operation of real property and any  
 31 improvements or businesses on real property or the lending of monies.

32 F. Conference call meetings of the fund manager of the public safety  
 33 personnel retirement system ~~which~~ THAT are held for investment purposes only  
 34 are not subject to chapter 3, article 3.1 of this title, except that the fund  
 35 manager shall maintain minutes of these conference call meetings and make  
 36 them available for public inspection within twenty-four hours after the  
 37 meeting. The fund manager shall review the minutes of each conference call  
 38 meeting and shall ratify all legal actions taken during each conference call  
 39 meeting at the next scheduled meeting of the fund manager.

40 G. The fund manager shall not be held liable for the exercise of more  
 41 than ordinary care and prudence in the selection of investments and  
 42 performance of its duties under the system and shall not be limited to  
 43 so-called "legal investments for trustees", but all ~~funds~~ MONIES of the  
 44 system AND OTHER PLANS THAT THE FUND MANAGER ADMINISTERS shall be invested

1 subject to all of the conditions, limitations and restrictions imposed by  
2 law.

3 H. Except as provided in subsection D of this section, the fund  
4 manager may:

5 1. Invest and reinvest the principal and income of ~~the pension fund~~  
6 ALL ASSETS THAT THE FUND MANAGER MANAGES without distinction between  
7 principal and income.

8 2. Sell, exchange, convey, transfer or otherwise dispose of any  
9 investments ~~of the fund held~~ MADE ON BEHALF OF THE SYSTEM OR OTHER PLANS THE  
10 FUND MANAGER ADMINISTERS in the name of the system OR PLANS by private  
11 contract or at public auction.

12 3. Also:

13 (a) Vote ~~upon~~ ON any stocks, bonds or other securities.

14 (b) Give general or special proxies or powers of attorney with or  
15 without power of substitution.

16 (c) Exercise any conversion privileges, subscription rights or other  
17 options and make any payments incidental to the exercise of the conversion  
18 privileges, subscription rights or other options.

19 (d) Consent to or otherwise participate in corporate reorganizations  
20 or other changes affecting corporate securities, delegate discretionary  
21 powers and pay any assessments or charges in connection therewith.

22 (e) Generally exercise any of the powers of an owner with respect to  
23 stocks, bonds, securities or other investments held in ~~the fund~~ OR OWNED BY  
24 THE SYSTEM OR OTHER PLANS WHOSE ASSETS THE FUND MANAGER ADMINISTERS.

25 4. Make, execute, acknowledge and deliver any other instruments that  
26 may be necessary or appropriate to carry out the powers granted in this  
27 section.

28 5. Register any investment held ~~in the fund in the name of the fund~~ BY  
29 THE SYSTEM OR OTHER PLANS WHOSE ASSETS THE FUND MANAGER ADMINISTERS IN THE  
30 NAME OF THE SYSTEM OR PLAN or in the name of a nominee.

31 6. At the expense of the system OR OTHER PLANS THAT THE FUND MANAGER  
32 ADMINISTERS, enter into an agreement with any bank or banks for the  
33 safekeeping and handling of securities and other investments coming into the  
34 possession of the fund manager. The agreement shall be entered into under  
35 terms and conditions that secure the proper safeguarding, inventory,  
36 withdrawal and handling of the securities and other investments. No access  
37 to and no deposit or withdrawal of the securities from any place of deposit  
38 selected by the fund manager shall be permitted or made except as the terms  
39 of the agreement may provide.

40 7. Appear before local boards and the courts of this state and  
41 political subdivisions of this state through counsel or appointed  
42 representative to protect the fund OR THE ASSETS OF OTHER PLANS THAT THE FUND  
43 MANAGER ADMINISTERS. The fund manager is not responsible for the actions or  
44 omissions of the local boards under this system but may seek review or  
45 rehearing of actions or omissions of local boards. The fund manager does not

1 have a duty to review actions of the local boards but may do so in its  
2 discretion in order to protect the fund.

3 8. Empower the fund administrator to take actions on behalf of the  
4 fund manager that are necessary for the protection and administration of the  
5 fund ~~in accordance with~~ OR THE ASSETS OF OTHER PLANS THAT THE FUND MANAGER  
6 ADMINISTERS PURSUANT TO the guidelines of the fund manager.

7 9. Do all acts, whether or not expressly authorized, that may be  
8 deemed necessary or proper for the protection of the investments held in the  
9 fund OR OWNED BY OTHER PLANS THAT THE FUND MANGER ADMINISTERS.

10 I. Investment expenses and operation and administrative expenses of  
11 the fund manager shall be accounted for separately and allocated against  
12 investment income.

13 J. The fund manager, as soon as possible within a period of six months  
14 following the close of any fiscal year, shall transmit to the governor and  
15 the legislature ~~an annual statement~~ A COMPREHENSIVE ANNUAL FINANCIAL REPORT  
16 on the operation of the system AND OTHER PLANS THAT THE FUND MANAGER  
17 ADMINISTERS containing, among other things:

- 18 1. A balance sheet.
- 19 2. A statement of income and expenditures for the year.
- 20 3. A report on an actuarial valuation of its assets and liabilities.
- 21 4. A detailed statement of the investments acquired and disposed of  
22 during the year.
- 23 5. A list of investments owned.
- 24 6. The total rate of return, yield on cost, and per cent of cost to  
25 market value of the fund AND THE ASSETS OF OTHER PLANS THAT THE FUND MANAGER  
26 ADMINISTERS.

27 7. Any other statistical and financial data that may be necessary for  
28 the proper understanding of the financial condition of the system AND OTHER  
29 PLANS THAT THE FUND MANAGER ADMINISTERS and the results of ~~its~~ THEIR  
30 operations. A synopsis of the annual report shall be published for the  
31 information of members of the system, THE ELECTED OFFICIALS' RETIREMENT PLAN  
32 OR THE CORRECTIONS OFFICER RETIREMENT PLAN.

33 K. The fund manager shall:

- 34 1. Maintain the accounts of the system AND OTHER PLANS THAT THE FUND  
35 MANAGER ADMINISTERS and issue statements to each employer annually and to  
36 each member who may request it.
- 37 2. Report the results of the actuarial valuations to the local boards  
38 and employers.
- 39 3. Contract on a fee basis with an independent investment counsel to  
40 advise the fund manager in the investment management of the fund AND ASSETS  
41 OF OTHER PLANS THAT THE FUND MANAGER ADMINISTERS and with an independent  
42 auditing firm to audit the fund manager's accounting.
- 43 4. Permit the auditor general to make an annual audit and the results  
44 shall be transmitted to the governor and the legislature.

5. Contract on a fee basis with an actuary who shall make actuarial valuations of the system AND OTHER PLANS THAT THE FUND MANAGER ADMINISTERS, be the technical adviser of the fund manager on matters regarding the operation of the funds created by the provisions of the system, THE ELECTED OFFICIALS' RETIREMENT PLAN, THE CORRECTIONS OFFICER RETIREMENT PLAN AND THE FIRE FIGHTER AND PEACE OFFICER CANCER INSURANCE POLICY PROGRAM and perform other duties required in connection therewith. The actuary must be a member of a nationally recognized association or society of actuaries.

6. Employ, as administrator, a person, state department or other body to serve at the pleasure of the fund manager.

7. Establish procedures and guidelines for contracts with actuaries, auditors, investment counsel and legal counsel and for safeguarding of securities.

L. The administrator, under the direction of the fund manager, shall:

1. Administer this article.

2. Invest the funds of the system AND OTHER PLANS THAT THE FUND MANAGER ADMINISTERS as the fund manager deems necessary and prudent as provided in subsections D and H of this section and subject to the investment policies and fund objectives promulgated by the fund manager.

3. Establish and maintain an adequate system of accounts and records for the system AND OTHER PLANS THAT THE FUND MANAGER ADMINISTERS, which shall be integrated with the accounts, records and procedures of the employers so that the system AND OTHER PLANS THAT THE FUND MANAGER ADMINISTERS operates most effectively and at minimum expense and that duplication of records and accounts is avoided.

4. In accordance with the fund manager's governance policy and personnel rules and procedures and the budget adopted by the fund manager, hire such employees and services the administrator deems necessary and prescribe their duties, including the hiring of one or more assistant administrators to manage the system's operations, investments and legal affairs.

5. Be responsible for income, the collection of the income and the accuracy of all expenditures.

6. Recommend to the fund manager annual contracts for the system's actuary, auditor, investment counsel, legal counsel and safeguarding of securities.

7. Perform additional duties and powers prescribed by the fund manager and delegated to the administrator.

M. The system is an independent trust fund and the fund manager, the administrator, the assistant administrators and all persons employed by them are not under the jurisdiction of the department of administration or any other agency, department or instrumentality of this state or subject to section 38-611 or title 41, chapter 4 or 6. The salaries of the administrator, assistant administrators and other employees of the fund manager are the sole determination of the fund manager. Contracts for goods



1 and services approved by the fund manager are not subject to title 41,  
2 chapter 23. As an independent trust fund whose assets are separate and apart  
3 from all other funds of this state, the system and the fund manager are not  
4 subject to the restrictions prescribed in section 35-154 or article IX,  
5 sections 5 and 8, Constitution of Arizona.

6 N. The attorney general or an attorney approved by the attorney  
7 general and paid by the fund shall be the attorney for the fund manager and  
8 shall represent the fund manager in any legal proceeding or forum that the  
9 fund manager deems appropriate. The fund manager, administrator, assistant  
10 administrators and employees of the fund manager are not personally liable  
11 for any acts done in their official capacity in good faith reliance on the  
12 written opinions of the fund manager's attorney.

13 O. At least once in each five-year period after the effective date,  
14 the actuary shall make an actuarial investigation into the mortality, service  
15 and compensation experience of the members and beneficiaries of the system  
16 AND OTHER PLANS THAT THE FUND MANAGER ADMINISTERS and shall make a special  
17 valuation of the assets and liabilities of the ~~funds~~ MONIES of the system AND  
18 PLANS. Taking into account the results of the investigation and special  
19 valuation, the fund manager shall adopt for the system ~~such~~ AND OTHER PLANS  
20 THAT THE FUND MANAGER ADMINISTERS THOSE mortality, service and other tables  
21 deemed necessary.

22 P. On the basis of the tables the fund manager adopts, the actuary  
23 shall make a valuation of the assets and liabilities of the funds of the  
24 system AND OTHER PLANS THAT THE FUND MANAGER ADMINISTERS not less frequently  
25 than every year. By November 1 of each year the fund manager shall provide a  
26 preliminary report and by December 15 of each year provide a final report to  
27 the governor, the speaker of the house of representatives and the president  
28 of the senate on the contribution rate for the ensuing fiscal year.

29 Q. Neither the fund manager nor any member or employee of the fund  
30 manager shall directly or indirectly, for himself or as an agent, in any  
31 manner use the monies or deposits of the fund except to make current and  
32 necessary payments, nor shall the fund manager or any member or employee  
33 become an endorser or surety or in any manner an obligor for monies loaned by  
34 or borrowed from the fund OR THE ASSETS OF ANY OTHER PLANS THAT THE FUND  
35 MANAGER ADMINISTERS.

36 R. The members of the fund manager who are appointed pursuant to  
37 subsection A, paragraphs 2 and 5 of this section shall have at least ten  
38 years' substantial experience as any one or a combination of the following:

- 39 1. A portfolio manager acting in a fiduciary capacity.
- 40 2. A securities analyst.
- 41 3. An employee or principal of a trust institution, investment  
42 organization or endowment fund acting either in a management or an investment  
43 related capacity.
- 44 4. A chartered financial analyst in good standing as determined by the  
45 association for investment management and research.

1           5. A professor at the university level teaching economics or  
2 investment related subjects.

3           6. An economist.

4           7. Any other professional engaged in the field of public or private  
5 finances.

6           S. Financial or commercial information that is provided to the fund  
7 manager, employees of the fund manager and attorneys of the fund manager in  
8 connection with investments in which the fund manager has invested or  
9 investments the fund manager has considered for investment is confidential,  
10 proprietary and not a public record if the information is information that  
11 would customarily not be released to the public by the person or entity from  
12 whom the information was obtained.

13           Sec. 3. Title 38, chapter 5, article 4, Arizona Revised Statutes, is  
14 amended by adding section 38-848.03, to read:

15           38-848.03. Investment managers

16           A. THE FUND MANAGER MAY APPOINT INVESTMENT MANAGEMENT. INVESTMENT  
17 MANAGEMENT SHALL HAVE:

18           1. THE HIGHEST PROFESSIONAL AND FIDUCIARY RECOMMENDATIONS.

19           2. NOT LESS THAN THREE YEARS' EXPERIENCE AT HANDLING INSTITUTIONAL  
20 INVESTMENTS OF AT LEAST TWO HUNDRED FIFTY MILLION DOLLARS. THIS PARAGRAPH IS  
21 SATISFIED IF INVESTMENT MANAGEMENT, THE INDIVIDUAL RETAINED BY INVESTMENT  
22 MANAGEMENT OR INDIVIDUAL EMPLOYEES IN A FIRM OF INVESTMENT MANAGERS MEET THIS  
23 REQUIREMENT.

24           3. HAD RESPONSIBILITY FOR INVESTMENT DECISION MAKING AS AN INSURANCE  
25 COMPANY INVESTMENT FUND, AN INVESTMENT DIVISION OF A BANK, A MUTUAL FUND, AN  
26 INVESTMENT ORGANIZATION OR INSTITUTION, A PENSION FUND OR AN INVESTMENT  
27 ADVISER WHO IS DESIGNATED AS A CHARTERED FINANCIAL ANALYST BY THE ASSOCIATION  
28 FOR INVESTMENT MANAGEMENT AND RESEARCH.

29           B. A BANK SERVING AS INVESTMENT MANAGEMENT DOES NOT HAVE A CONFLICT OF  
30 INTEREST BECAUSE IT IS ALSO A DEPOSITORY IN WHICH ANY MONIES ADMINISTERED BY  
31 THE FUND MANAGER ARE DEPOSITED.

32           C. THE FUND MANAGER SHALL APPOINT INVESTMENT MANAGEMENT FOR A TERM OF  
33 ONE YEAR AND MAY APPOINT THE INVESTMENT MANAGEMENT TO SUCCEEDING TERMS. THE  
34 FUND MANAGER MAY REMOVE INVESTMENT MANAGEMENT FOR NOT COMPLYING WITH THIS  
35 ARTICLE OR FOR FAILURE TO COMPLY WITH OR ADHERE TO THE FUND MANAGER'S  
36 INVESTMENT GOALS, OBJECTIVES OR POLICIES.

37           D. INVESTMENT MANAGEMENT APPOINTED BY THE FUND MANAGER:

38           1. MAY PURCHASE AND SELL IN THE NAME OF THE SYSTEM AND OTHER PLANS  
39 THAT THE FUND MANAGER ADMINISTERS ANY OF THE SECURITIES AND INVESTMENTS HELD  
40 BY THE SYSTEM OR PLANS.

41           2. SUBJECT TO ANY RESTRICTIONS IMPOSED BY THE FUND MANAGER, ARE  
42 RESPONSIBLE FOR MAKING ALL INVESTMENT DECISIONS RELATING TO THE INVESTMENTS  
43 THE FUND MANAGER HAS ASSIGNED INVESTMENT MANAGEMENT TO MANAGE.

44           E. INVESTMENT MANAGEMENT SHALL NOT DIRECTLY OR INDIRECTLY:

1           1. EXCEPT FOR THE FEES AGREED TO BE PAID BY THE FUND MANAGER TO  
2 INVESTMENT MANAGEMENT OR AS OTHERWISE AGREED BY THE FUND MANAGER, HAVE ANY  
3 INTEREST IN THE INVESTMENTS BEING MANAGED BY INVESTMENT MANAGEMENT FOR THE  
4 FUND MANAGER.

5           2. BORROW MONIES, FUNDS OR DEPOSITS OF THE SYSTEM OR OTHER PLANS THAT  
6 THE FUND MANAGER ADMINISTERS OR USE THESE MONIES IN ANY MANNER EXCEPT AS  
7 DIRECTED UNDER THIS ARTICLE.

8           3. BE AN ENDORSER, SURETY OR OBLIGOR ON INVESTMENTS MADE UNDER THIS  
9 ARTICLE.

10          F. SUBJECT TO THE LIMITATIONS IN THIS ARTICLE, THE FUND MANAGER MAY  
11 AUTHORIZE THE ADMINISTRATOR, ANY ASSISTANT ADMINISTRATORS AND OTHER IN-HOUSE  
12 INVESTMENT PROFESSIONALS EMPLOYED BY THE FUND MANAGER TO MAKE INVESTMENTS FOR  
13 THE SYSTEM AND OTHER PLANS THAT THE FUND MANAGER ADMINISTERS THAT DO NOT  
14 EXCEED FIFTY PER CENT OF THE ASSETS OF THE SYSTEM AND OTHER PLANS MEASURED AT  
15 COST.

16          G. TO EXERCISE THE RESPONSIBILITIES PRESCRIBED IN THIS SECTION, THE  
17 FUND MANAGER MAY ENTER INTO CONTRACTS THAT MAY BE INTERPRETED AND ENFORCED  
18 UNDER THE LAWS OF A JURISDICTION OTHER THAN THIS STATE AND THAT ARE NOT  
19 SUBJECT TO SECTION 35-214 OR 38-511 OR TITLE 41, CHAPTER 23.

20          Sec. 4. Emergency

21          This act is an emergency measure that is necessary to preserve the  
22 public peace, health or safety and is operative immediately as provided by  
23 law.